

Montana Water Journal

SENATE NATURAL RESOURCES

Exhibit No. 21

Date 3/20/15

Bill No. HJ 5



Yellowstone River

“KOW”



Water leaving the State

“Keep Our Water”

Property values are subject to Existing available surface & underground Water Rights.

Sec. 3 Water Rights (3)

All surface, underground, flood and atmospheric water within the boundaries of the state are the property of the state for the use of its people.

Water: Use it or Lose it, “ Down stream and out of State”

By: Rep. Clayton Fiscus

House Joint Resolution No. 5

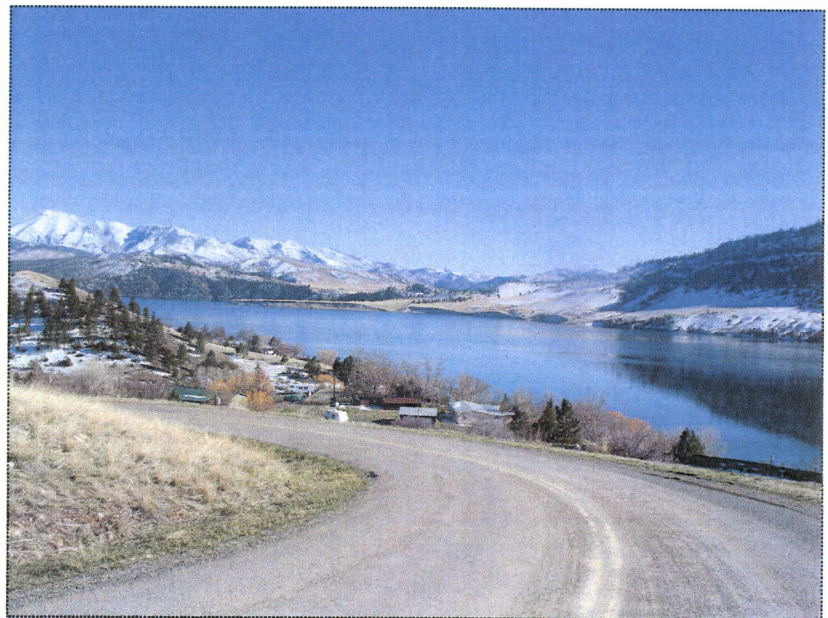
Sponsor: Rep. Clayton Fiscus

A joint resolution to review water policy, to recommend options for increasing the use of our states surface & groundwater.

We know how much coal we have.

Now it is time to publish how much surface & groundwater we have.

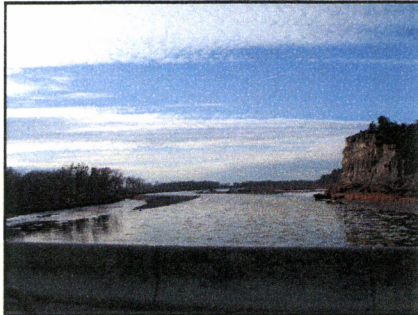
“Use it or lose it”



COMMON SENSE WATER FACTS

Montana is the #1 Headwaters State in the United States

YELLOWSTONE



**We Have Enormous
Amounts of Water
Leaving the State
Everyday**

MISSOURI



COMMON SENSE - WATER FACTS:

Every time a water right is taken away from a Montana Citizen it goes down the stream and out to other States for their economy and domestic use.

"Every drop of water" in Montana is replaced each year with enormous weather patterns as part of a predictable hydrologic water cycle.

Montanans export, after all use, consumption and evaporation/gravity 40,000,000 (YES 40 Million acre ft) of surface water each year from the 5 major streams that are leaving the State.

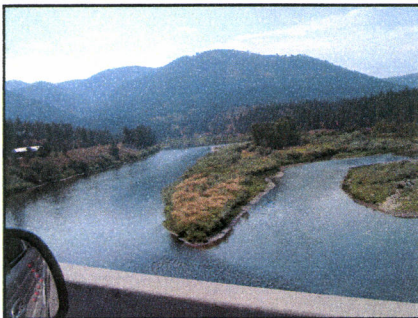
3% of Montana water supply is surface water. The balance is ground water surfacing in river bed.

We are the **major supplier of water** for irrigation, barge traffic on the Mississippi, and for hydro-electric generation and storage water for North Dakota's Garrison Dam, South Dakota's Oahe, Big Ben and Fort Randal Dams.

KOOTENAI



BITTERROOT



**Let's Use It
Not Lose It**



Clayton Fiscus is a Realtor, Developer, Property Manager, Home Builder, Farm & Ranch Manager with 40 Years experience in all these fields and has been an outspoken advocate protecting Montana Water Rights for the past 25 years.

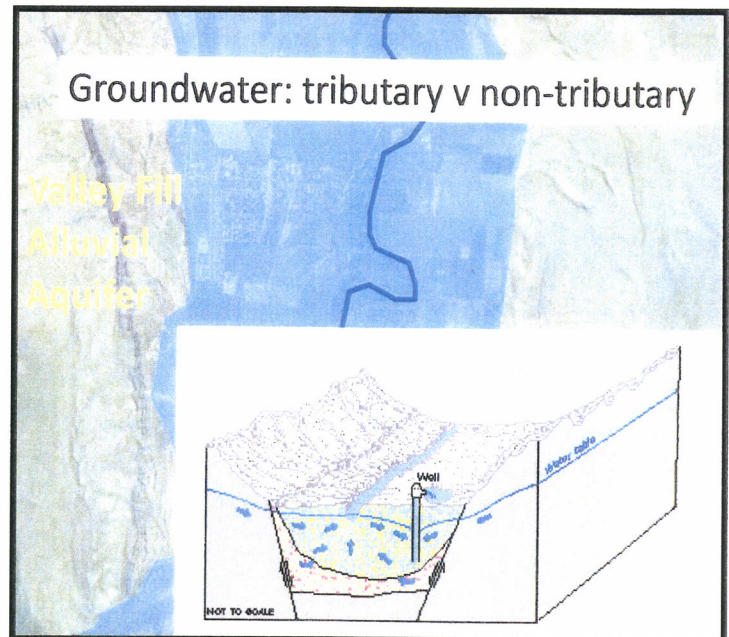
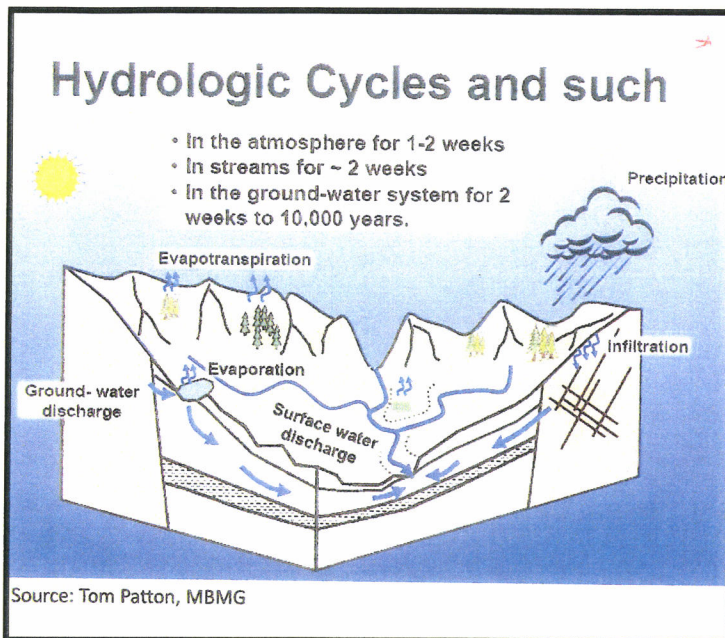
Clayton Fiscus is Chairman, K.O.W., Keep our Water Committee, 406-252-6400 or 406-860-6400.

Any mistakes or errors are the responsibility of Clayton Fiscus.

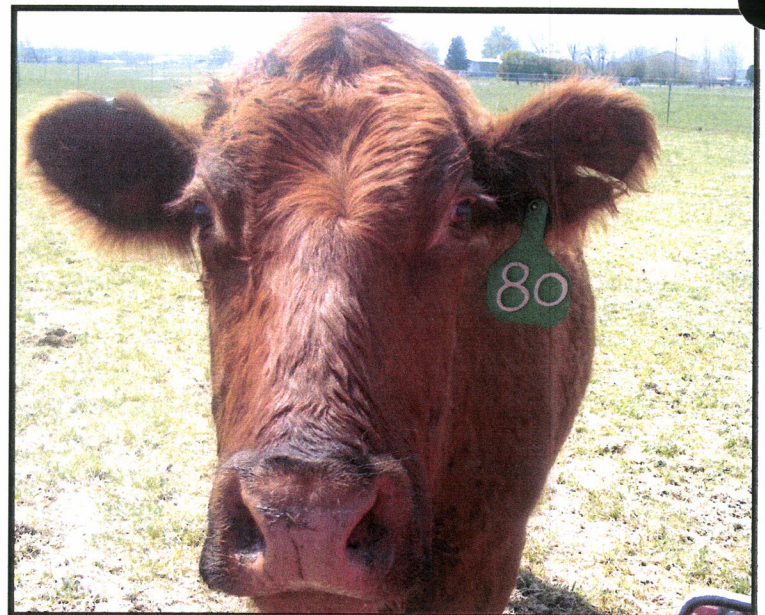
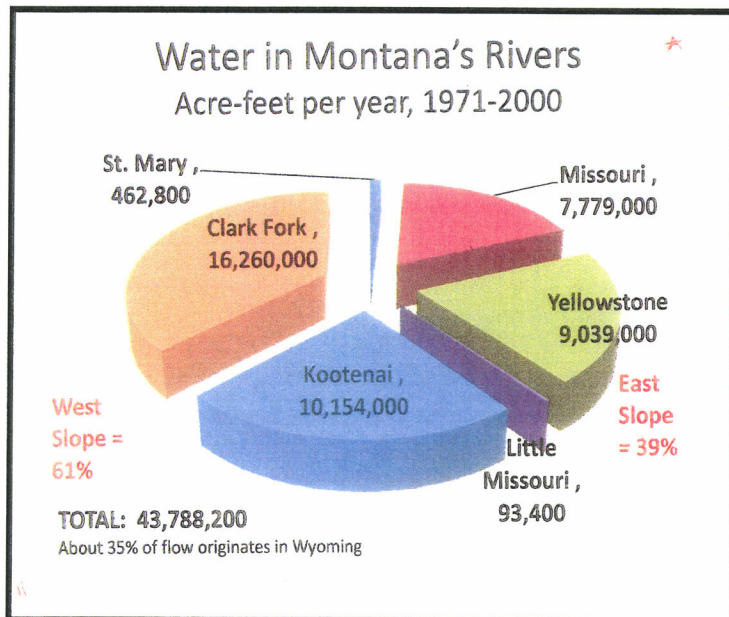
Clayton Fiscus, 1111 Main Street, Suite # 11, Billings, Montana 59105, Call Anytime..

100% Of Montana's Surface & Ground Water is replaced with Massive Weather Systems, Rain and Mountain Snow every year.

Stream Water is only 5% of Montana's Water Supply. 95% is underground for domestic well use.



1. Montana ground water supply is estimated at 400 million acre feet.
2. Surface water 43,788,200 Acre Feet Per Year = 14,000,000,000 (Trillion Gallons).
3. Montana wells use less than .001% of the States Water Supply.



Apple says, "K.O.W." "KEEP OUR WATER" our 2,500,000 cows in Montana depend on well water.

We must stop the "your water is our water attitude" by Government Officials and special interests that threaten Montana's use of our most abundant renewable resource. Our founding fathers water diversion and dam storage for farm irrigation, hydro-electric and recreation use produces Billions of dollars in economic growth each year. Use it or Lose Billions of Dollars in economic growth to other States.

From: JLaFave@mttech.edu
To: fiscusrity@aol.com
Sent: 2/24/2015 10:17:12 A.M. Mountain Standard Time
Subj: MT water wells

Dear Mr. Fiscus:

Below is a map of water wells in Montana, there about 200,000 wells that pump water for domestic, stock, irrigation, public water supply (PWS), and industrial/commercial uses. I also included a pie chart that shows the breakdown of reported well use. This information comes from the Montana Ground Water Information Center (<http://mami.pwc.mtech.edu/>) at the Bureau of Mines and Geology (<http://www.bmg.mtech.edu/>) in Butte.

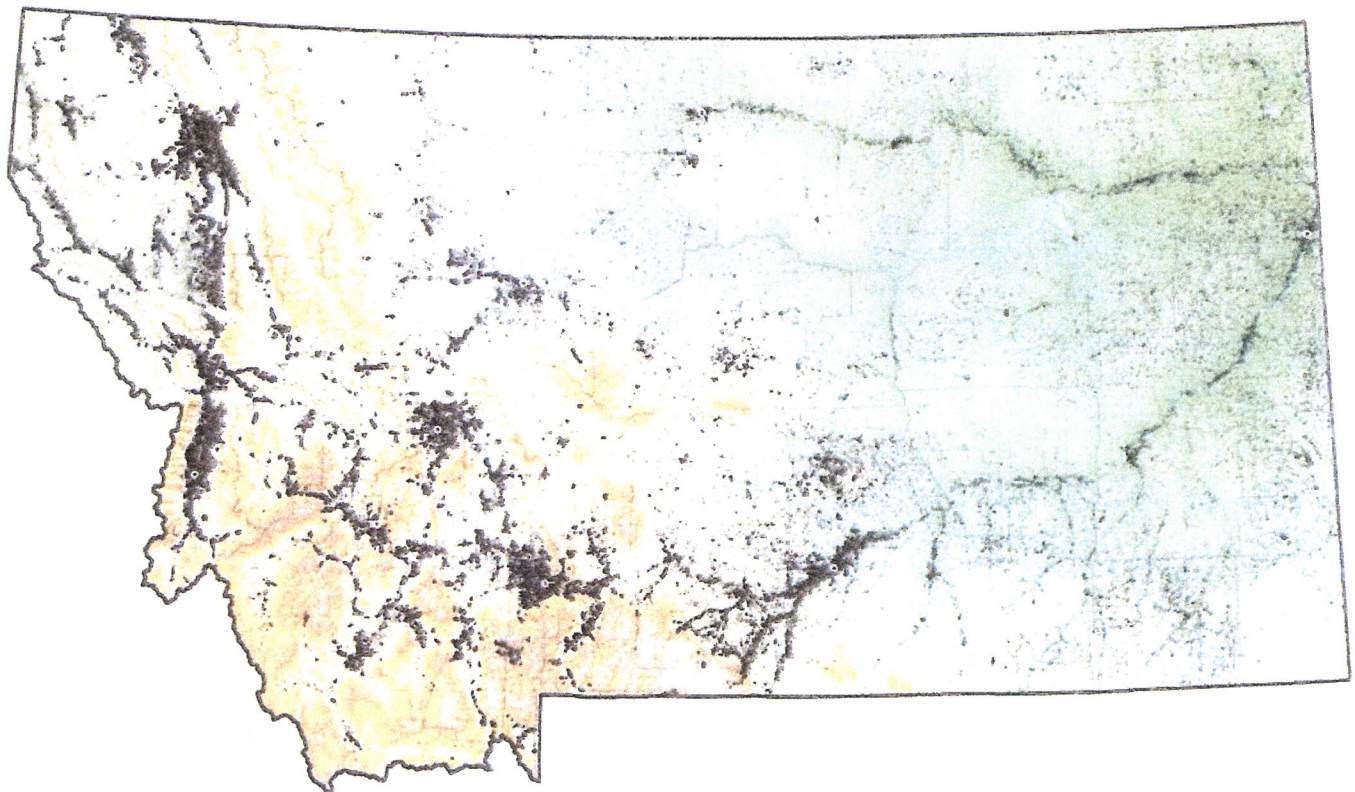


Figure 1. Location of water wells in Montana.

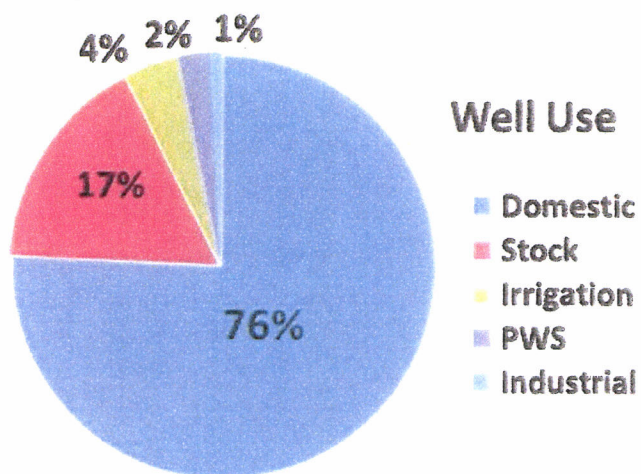


Figure 2. Reported well use from the driller's logs.

Water resource Inventory Study

Study report must include:

Average annual atmospheric moisture

- A. Snowfall
- B. Rain

Average in-stream Flow Exiting the state.

- a. Missouri
- B. Yellowstone
- C. Bitterroot
- D. Kootenai
- E. Mary

Ground water inventory

- A. All Closed Basins
- B. All areas outside closed basins

Identify Aquifers

Domestic well inventories

- A. Number of domestic wells in state

Permitted wells in state

Identify major use

- A. Irrigation
- B. Municipal
- C. evaporation
- D Gravity
- E. Ranching
- F. Senior Water Rights
- G. Irrigation District Water Rights
- H. Federal Water Rights

Pre-Application Review

- Meet with Applicant to discuss the proposed project
- Complete Pre-Application Checklist

WATER RIGHT APPLICATION PROCESS CHART For Change Applications January 2013

1. Receive Application - Application acceptance criteria within 5 days of app. receipt

- Fee paid
- Name/address of applicant, source of water supply, point of diversion, means of diversion (addendum for detailed specs on diversion/conveyance works /system), period of approp., place of use, purpose of use, place of storage, flow rate, volume, contact person, etc.
- Map & signature
- Posted on web within 10 days of app. receipt

2. Correct & Complete Review

- Determination of C&C made within 180 days of app. receipt
- Review is to determine if all the information is adequate to begin evaluation
- Proposed change clearly identified, understandable and contains minimum required information (see rules)
- Personal water use records reviewed (water measurement or electricity records, ranch logs, etc.)
- Field Inspection by Staff, if necessary
- May Informally meet anytime with Applicant during this stage to discuss application (in-person or phone interview documented)
- Application can be amended at this time
- Independent resources compiled by Staff (WRS and field notes, aerials, decrees, stream gauging records, water right records, etc)
- Technical report on historic use, return flows, adequacy of diversion works, and beneficial use by Staff.

3. Not Correct & Complete to Process

- Send standard deficiency letter
- Include 30 day (45) deadline for applicant to make adequate
- Staff will review for adequacy after deficiency response received and either move to steps 4 or 5
- No refund after this step

5. Correct & Complete

- Enter C&C date in Oracle
- Send C&C letter and technical report to applicant w/ 15 day deadline to request a meeting date.
- Applicant may request extension in writing, up to 60 days, to submit additional information to meet the criteria or amend application; waiver of 120 day decision timeline must be signed.
- Should have 2 staff in attendance/take notes
- Complete MEPA document

4. Not Adequate Deficiency Response - TERMINATE

- Terminate if NO response within 90 days
- Terminate if response doesn't resolve all deficiencies

6. Prepare Draft Preliminary Determination (DPD) & Meet with Applicant

- Draft DPD to grant, deny or grant with modifications - send to CO staff for review including whether the DPD satisfies the criteria (one CO staff person will be responsible for compiling all CO edits and comments before responding to the RO)
- Send DPD to deny or DPD to grant with modifications to Applicant w/ 15 day deadline to request a meeting date; others who have standing may attend (or request meet. w/ RO)
- If meeting requested, waiver of 120 day decision must be signed
- Applicant may request extension in writing, up to 60 days, to prove that the criteria have been met or they may amend their application
- Should have 2 staff in attendance/take notes

8. Issue Preliminary Determination to Deny/Grant with Modifications - Hearing Scheduled

- Set hearing date within 45 days of PDD date. Attach Notice of Hearing w/ PDD
- A different RM may conduct hearing on inadequate criteria or historic use
- Applicant may request extension of hearing timeline
- Decision within 90 days of close of record

7. Issue Preliminary Determination to Grant

- Must be within 120 days of Correct & Complete unless waiver signed
- If PDD changes from 6 above, send to CO staff for review of changes
- RO Mail to Applicant

9. Grant/Grant with Modifications

- Issue PDD to grant
- If changed from 6 above, send to CO

10. Deny

- Issue Final Order
- If changed from 8 above, send to CO staff for review
- RO mail Final Order to applicant

12. Public Notice

- Use current format w/ PDD decision statement
- Objection Deadline - 45 days

11. Appeal to District Court

- If court reverses the Dept decision then the application goes to public notice

13. No Objection Received

- Wait 7 days after obj. deadline
- Issue Final Order adopting PDD within 30 days of objection deadline - (standard template)
- Issue permit exactly as shown in PDD

14. Objections Received - Hearing Scheduled

- Ruling on objection
- If no valid objection, go to Step 13.
- RO send file to Hearings Unit.
- Objections scanned for RO
- CO will send objection letters with HE assigned & Notice of Hearing date
- Hearing must be within 90 days of objection deadline
- Request for additional 90 days with good cause or agreement of applicant and all objectors (standard template)
- FO must be issued within 90 days of close of record

15. Deny / Grant

- Issue Final Order
- Either side can appeal

16. Applicant / objectors withdraws the objection as part of a stipulation with conditions-Order issued to Grant

- HE dismisses hearing and issues Final Order to grant w/ or w/o stipulated conditions as needed to satisfy the criteria within 30 days of stipulation receipt (standard template) May include private agreement condition.
- Dept will only review the portions of the stipulation that relate to the criteria

17. Objection withdrawn-Order issued to Grant

- HE issue Final Order granting application within 30 days of receipt of withdrawal (standard template)

CO-Central Office
RO-Regional Office
HE-Hearings Examiner
DPD-Draft Preliminary Determination
PDD-Preliminary Determination Document



A Montana Water Rights Ballad


All Day we face those in a race to replace the laws on water, Cool Water
My Neighbors and I are raising a cry to stop this try for water
Cool, Well Water

These guys are cruel, Don't be a Fool, They sit and drool for Water
Well Water
It's quite a show, so we can't grown, they'll stop the flow of water
Cool, Well, Water



Chorus:

Keep a moving guy, Don't ya listen to their lie, We gotta wonder why
They've made a plan so sly for water
People can't you see that the DNRC wants our water runnin' free
Leavin' nothing there for you and me.... Water
Cool, Well, Water




The skies make rain' plenty to sustain, from the mountains to the plain there's water
Well Water
An ain't it strange? No need for change. Are they deranged? There's water
Cool, Well, Water

Our feet are sore from walking the floor to keep our store of water
Well Water
Gotta do our best. No time for rest. Can't stop our quest for water.
Cool, Well, Water



Chorus:

Keep a moving guy, Don't ya listen to their lie, We gotta wonder why
They've made a plan so sly for water
People can't you see that the DNRC wants our water runnin' free
Leavin' nothing there for you and me... Water
Cool, Well, Water
Cool, Well, Water



Words & Song By Frosty Erben
With apologies to Sons of the Pioneers Bob Nolan and Tim Spencer
Music Production and Vocals by Andy Wilson - Cimarron Band